

THE NEW LARGE CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFO) ACT

UCIP 2021 Summer Risk Management Workshop

The Homestead

29 July 2021, 2:15 p.m.

I. Summary

This presentation introduces S.B. 130, passed in the 2021 General Session, and codified as Utah Code sections 17-27a-1101 through -1104, called the Large Concentrated Animal Feeding Operations (CAFO) Act (the “CAFO Act”).

The CAFO Act requires that, by 1 February 2022, any county that wishes to restrict siting large CAFOs within its borders must designate geographic areas for the use. The CAFO Act contains a safe harbor that might apply to some counties to allow them to avoid designating such areas.

II. The CAFO Act’s Requirements

The CAFO Act defines an animal feeding operation (an AFO) as an operation where the animals are confined and fed for a total of at least 45 days a year, and crops or other vegetation are not sustained during the normal growing season over any portion of the operation. Utah Code § 17-27a-1102(1). A large CAFO is an AFO that confines at least the numbers of particular animal species specified in subsection (6). Utah Code § 17-27a-1102(6).

The CAFO Act effectively requires that a county pass an ordinance amending its zoning map to include an overlay zone indicating where large CAFOs may be located as conditional uses. The ordinance must include a map illustrating where the overlay zone is located, set forth the application requirements and procedures, including any application fee, and provide for administrative remedies. Utah Code §§ 17-27a-1103(2)(a)-(e), -1104(2).

The area zoned for large CAFOs cannot be based solely on setbacks, but also must consider the following five criteria: (1) the distance from various population-dense uses (most with a particular definition); (2) prevailing winds; (3) topography; (4) economic benefit; and (5) access to transportation, water, and power. While these criteria are mandatory, they are not exclusive. Utah Code §§ 17-27a-1104(1) & (3).

III. Safe Harbor

If a county can demonstrate that its population density or its density relative to its private land “makes it not feasible” to establish an area for large CAFOs under the foregoing criteria, then the county is excused.

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